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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92054855
Party	Defendant Fashion Exchange, LLC
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Hybrid Promotions, LLC,)	
)	
Petitioner)	
)	
V.)	Cancellation No. 92054855
)	
Fashion Exchange, LLC,)	
)	
Registrant)	
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ANSWER

1. Registrant denies knowledge and information sufficient to form a belief as to the truth of the allegation of paragraph 1 of Petition that Petitioner's mark HYBRID is the subject of trademark Application Serial Number 85245387, filed by Petitioner.
2. Registrant denies knowledge and information sufficient to form a belief as to the truth of the allegation of paragraph 2 of Petition that Petitioner has been manufacturing and distributing apparel under the HYBRID mark since at least as early as 1999.
3. Registrant denies knowledge and information sufficient to form a belief as to the truth of the allegation of paragraph 3 of Petition that Petitioner has been using HYBRID's mark in interstate commerce since at least as early as 1999.
4. Registrant denies knowledge and information sufficient to form a belief as to the truth of the allegation of paragraph 4 of Petition that through the years Petitioner has expended substantial amounts of money, time and effort in developing, advertising, and promoting the HYBRID mark and has received substantial national publicity with respect to its apparel items.
5. Registrant denies knowledge and information sufficient to form a belief as to the truth of the allegation of paragraph 5 of Petition that the HYBRID mark is a strong trademark, and has developed goodwill and a good reputation exclusive to Petitioner.
6. Registrant denies knowledge and information sufficient to form a belief as to the truth of the allegation of paragraph 6 of Petition that Petitioner has prominently and continuously used the HYBRID mark in commerce on its apparel products. The HYBRID mark is prominently affixed to its products in at least two locations: (a) on the sewn in or screened in label on the inside of the back collar of its shirts, and (b) on the hang tag attached to its products.

7. Registrant admits the allegation that Registrant has been using Registration No. 3723220 for the mark HYBRID & COMPANY in connection with goods in Class 25 ("Registrant's Mark"), however denies the allegation that Registrant must get authority from Petitioner to use Registrant's Mark.
8. Registrant admits that it filed its application on June 5, 2008 and denies the allegation that the date of first use of Registrant's Mark of March 5, 2006. Registrant denies knowledge and information sufficient to form a belief as to the truth of the allegation that both the date of first use and the filing date of Registrant's mark are well after Petitioner's first use of the HYBRID mark. Registrant denies the allegation that it has no use of its mark, either actual or constructive, prior to Petitioner's use of the HYBRID mark.
9. Registrant admits the allegation that it is using Registrant's Mark to sell apparel products, however denies knowledge and information sufficient to form a belief as to the truth of the allegation that the same goods sold by petitioner under the HYBRID mark - to the same or similar consumer as Petitioner, using nearly the same trademark as that owned and used by petitioner. Registrant denies the allegation that consumers are being misled into believing that the goods sold under Registrant's Mark are Petitioner's products, when, in fact, they are not.
10. Registrant denies knowledge and information sufficient to form a belief as to the truth of the allegation of Paragraph 10 of the Petition that Registrant's Mark, when applied to the goods recited in Registrant's registration, is so similar to the HYBRID Mark used with Petitioner's goods, as to create a likelihood of confusion, or to cause mistake, or to deceive, within the meaning of Section 2(d) of the Lanham Act, all to Petitioner's irreparable damage.
11. Registrant denies knowledge and information sufficient to form a belief as to the truth of the allegation that Registrant's Mark is confusingly and deceptively similar to petitioner's HYBRID mark, however, denies the allegation that Registrant is not entitled to adopt, use or seek registration of Registrant's Mark in connection with the goods identified in Registrant's registration.
12. Registrant denies knowledge and information sufficient to form a belief as to the truth of the allegation of Paragraph 12 of the Petition that the goods identified in Registrant's registration are identical or closely related to the goods sold by Petitioner under its HYBRID mark, are used in similar channels of trade and are likely to be encountered by those familiar with goods and services associated with Petitioner's HYBRID mark.
13. Registrant denies knowledge and information sufficient to form a belief as to the truth of the allegation of Paragraph 13 of the Petition that Registrant's Mark and Petitioner's HYBRID mark are nearly identical in appearance and are identical phonetically, in part, so that contemporaneous use of the respective marks will create a likelihood of confusion, mistake or deception among the trade and consumers,

14. Registrant denies knowledge and information sufficient to form a belief as to the truth of the allegation of Paragraph 14 of the Petition that Registrant's Mark is confusingly and deceptively similar to Petitioner's HYBRID mark, and may falsely imply or suggest an affiliation or other connection between Registrant and Petitioner which does not exist. The consuming public,, upon seeing Registrant's Mark in association with Registrants goods, is likely to believe that the goods are made, endorsed or sponsored by Petitioner, or that there is a trade connection or affiliation between Registrant and its goods, on the one hand, and Petitioner's goods on the other hand, when in fact, no such affiliation or sponsorship exists.
15. Registrant denies knowledge and information sufficient to form a belief as to the truth of the allegation of Paragraph 15 of the Petition that Petitioner is the prior user of the HYBRID mark for apparel items in Class 25. Petitioner and its business interests will be damaged if Registrant is permitted to maintain its registration and virtually identical mark. To be sure, any faults or defects in Registrant's goods would reflect adversely upon and seriously injure the valuable reputation and good will of Petitioner.
16. Registrant denies the allegation of the WHEREFORE within the petition, if any.

AFFIRMATIVE DEFENSES

17. The Petition fails to state a claim upon which relief may be granted.
18. Petitioner lacks standing to petition to cancel or otherwise contest Registrant's rights, applications and registrations.
19. The Petitioner has not and will not be damaged by the registration of the Registrant's Mark and therefore lacks standing to petition to cancel the registration.
20. Petitioner has no right to the generic descriptive term Hybrid and any claim of damage to petitioner is of its own doing.
21. Petitioner is barred from seeking cancelation of the Registrant's trademark under the doctrines of laches, estoppels, waiver, and unclean hands.
22. Petitioner has acquiesced in registrant's adoption, registration and use of the mark that is the subject of the petition.
23. Petitioner and its putative members having not opposed, petitioned to cancel, or otherwise contested Registrant's right with respect to its registration is barred from contesting Registration number 3723220, at least with respect to the classes set forth in the contested application and registration pursuant to, inter alia, the Morehouse defense.
24. Petitioner has acquiesced to the rights of Registrant and cannot now contest those rights in this proceeding.
25. Registrant was not aware of Petitioner's February 17, 2011, application as it did not exist.
26. Personal jurisdiction over the Registrant is lacking. The Petitioner failed to serve te Registrant in accordance with the FRCP and relevant laws.

WHEREFORE, Registrant prays that the cancellation be dismissed with prejudice.

Respectfully submitted,

LAW OFFICE OF MORRIS FATEHA, P.C.

Dated: January 31, 2012

By: /S/
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing registrant's answer to petition for cancelation was served on counsel for petitioner, this 5th day of February, 2012, by sending the same via First Class Mail service, to

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/S/
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